

Introduction to Free Speech: Current Controversies

Free Speech, 2006

Kristina Borjesson, ed. *Into the Buzzsaw: Leading Journalists Expose the Myth of a Free Press*. New York: Prometheus Books, 2002.

"The war on terror had begun, and with it, a battle over [freedom](#) of speech."

Following the September 11, 2001, terrorist attacks on New York and Washington, D.C., President George W. Bush was quoted as saying, "Freedom itself was attacked this morning by a faceless coward, and freedom will be defended.... Make no mistake: The [United States](#) will hunt down and punish those responsible for these cowardly acts." The war on terror had begun, and with it, a battle over [freedom of speech](#). Just a few days later, political comedian Bill Maher made the following comment on his late-night talk show, *Politically Incorrect*: "We [Americans] have been the cowards lobbing cruise missiles from 2000 miles away. That's cowardly. Staying in the airplane when it hits the building, say what you want about it, it's not cowardly." When Ari Fleischer, press secretary for the Bush administration, was asked about the White House's response to Maher's comment, he said that all Americans "need to watch what they say, watch what they do." While many saw Maher's comment as unpatriotic, some viewed it as an important, if ill-timed, exercise in free speech. Similarly, many thought Ari Fleischer's reaction was a legitimate call for discretion in wartime, while numerous civil libertarians saw it as an official crackdown on American free speech and civil liberties during the war on terror. The stage was set for the debate over what constitutes legitimate free speech in wartime, arguably the most important free speech issue today.

The right to freedom of speech has always been contentious despite the First Amendment's seemingly unequivocal affirmation that "Congress shall make no law ... abridging the freedom of speech or of the press." It has been widely acknowledged that certain forms of speech, especially those that cause harm, are not protected by the First Amendment. Yelling, "Fire!" in a crowded theater is the classic, oft-cited example. Clearly, yelling "Fire!" could induce panic and put people at risk. But not all cases are so clear-cut. During wartime, especially, the cases become difficult. For example, is it appropriate in a time of national tragedy to characterize the perpetrators of terrorist acts as brave? Are certain forms of speech absolutely inappropriate in wartime? During past wars, laws were passed restricting freedom of speech in order to enhance [national security](#). Many contend that the war on terror should be treated as any other war. According to judge Richard A. Posner, "The events of September 11 have revealed the United States to be in much greater jeopardy from international [terrorism](#) than had previously been believed.... It stands to reason that our civil liberties will be curtailed." However, as many experts point out, the war on terror is unlike other wars because it is ongoing. Thus laws regulating what people say could become permanent, rather than temporary, restrictions on free speech.

The USA Patriot Act, passed in October 2001, quickly became the focus of debates over wartime

[freedom of expression](#). The act granted unprecedented power to the Department of Justice to prosecute the domestic war on terror. One particular part of the Patriot Act, Section 215, has been widely criticized by groups such as the American Library Association (ALA) and the [American Civil Liberties Union](#) (ACLU) for infringing on the privacy rights of library patrons, book buyers, and charitable organizations. Section 215 allows federal [law enforcement](#) officers to seize records in secret if it is believed that they are related to terrorist activities. The ALA and ACLU contend that this section is in violation of the First Amendment because it could have a chilling effect on people borrowing or buying books on potentially sensitive subjects, such as international terrorism or Islam. The U.S. Justice Department, however, argues that it is a necessary tool for combating terrorism.

The right to political [dissent](#) is another area of controversy. In February 2003, just as the United States was prepping for war in Iraq, a man was forced to leave a mall in upstate New York because he was wearing a shirt that said "Peace On Earth." In another example, the popular country band The Dixie Chicks was pulled from the playlists of many radio stations because the lead singer of the band said that she was ashamed of President Bush for his support for the war in Iraq. During 2004 presidential campaign stops, dissenters were often relegated to "free speech zones," located far away from the sites of presidential rallies and speeches. They were thus not seen by the news media, and their messages were not disseminated.

As the war on terror continues, Americans struggle between their desire for security and their wish to preserve their cherished right to free speech. An annual poll conducted by the Freedom Forum, known as the First Amendment survey, has consistently shown that since September 11 a majority of Americans believes that the First Amendment goes too far in the degree of freedom that it grants citizens.

People feel vulnerable to [terrorists](#) and are willing to endure some restrictions on what they can say if such limitations make the nation safer. With no end in sight, the war on terror will certainly continue to test the willingness of Americans to trade freedom for safety. Americans have often been sharply divided over [pornography](#), flag burning, [hate speech](#), speech codes, and the extent of corporate free speech, but they have become especially polarized over whether speech should be restricted so that anti-American or antiwar statements do not jeopardize the war effort and make Americans more vulnerable. Throughout *Current Controversies: Free Speech*, authors debate where the line should be drawn between appropriate and inappropriate expression, and explore the ramifications that a post-September 11 world has for free speech.

Further Readings

Books

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- Sean R. Gallagher and Marianne N. Hallinan "Privacy Versus Freedom of Speech: Telemarketing and Government's Ability to Limit It," *Colorado Lawyer*, October 2004.
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